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Calendar No. 383

101ST CONGRESS *1st Session* | SENATE | REPORT 101-207

ENSURING THAT FUNDS PROVIDED UNDER SECTION 4213 OF THE INDIAN ALCOHOL AND SUBSTANCE ABUSE PREVENTION AND TREATMENT ACT OF 1986 MAY BE USED TO ACQUIRE LAND FOR EMERGENCY SHELTERS

NOVEMBER 15 (legislative day, NOVEMBER 6), 1989.—Ordered to be printed

Mr. INOUYE, from the Select Committee on Indian Affairs, submitted the following

REPORT

[To accompany S. 1813]

The Select Committee on Indian Affairs, to which was referred the bill (S. 1813) to ensure that funds provided under section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 may be used to acquire land for emergency shelters, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

COMMITTEE REPORT

The purpose of S. 1813, is to ensure that funds provided under section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 may be used to acquire land for emergency shelters.

BACKGROUND

Pursuant to the authorizing legislation, Public Law 99-570, Congress appropriated $5,000,000 in Fiscal Year 1987 for the express purposes of constructing or renovating emergency shelters/halfway houses for Indian youth who were alcohol or substance abusers, including youth who had been arrested for offenses directly or indirectly related to alcohol or substance abuse. Congress clearly saw these facilities as an alternative to jail for Indian youth who have been arrested or detained for any misdemeanor.

In response to a 1987 Federal Register announcement, the Northwest Inter-tribal Education and Training Board (formed pursuant to Public Law 93-638), an inter-tribal consortium representing six Northwest tribes: Nooksack, Upper Skagit, Stillaguamish, Sauk-Suiattle, Lummi, and Swinomish. The consortium began to develop

S413-7

a plan for an inter-tribal halfway house for youths who had substance abuse problems. Services to be provided at the halfway house include: pre and post substance abuse treatment services, temporary residence, individual, family and group therapy, educational and career counselling services and a comprehensive aftercare plan for transition back into the native communities. A facility was identified which was previously licensed as a group home near the Sauk-Suiattle Reservation.

In late 1987, the Northwest Inter-tribal Education and Training Board responded to a request for proposals from the Bureau of Indian Affairs for the purchase, construction, and renovation of halfway house facilities for substance abuse services for Indian youth. Their proposal was ranked and rated by a five member evaluation committee composed of representatives from the Bureau of Indian Affairs, Division of Social Services, Judicial Services, Facilities Management and Construction Center, Office of Construction Management, and the Office of Indian Education Programs. After the evaluation of all proposals was completed, the results were published in the Federal Register, Volume 53, number 97, dated Thursday, May 1, 1988. The Northwest Inter-Tribal Education and Training Board proposal was ranked number 14 of the 37 proposals evaluated nationally. The Board was then notified by the Bureau that in order to expedite the funding process, funds would be available in Public Law 93-638 contracts or in grants. The Board indicated that they would prefer to receive the funding in the form of a grant.

During the early part of calendar year 1989 the Facilities Construction Center in Albuquerque issued contracts to several Indian-owned Architect and Engineering firms for the purpose of conducting site visits to validate the proposals and offer technical assistance to the top 20 tribes ranked for construction funds for these emergency shelters. When a visit was made to the Northwest Inter-Tribal Education and Training Board, it was discovered that they had proposed to purchase approximately 52 acres of land from the First Baptist Church of Everett, Washington. The property included a group home, family duplex, out buildings, a pumphouse, a barn and play fields. It was subsequently agreed upon between the Northwest Inter-Tribal Education and Training Board, the first Baptist Church and the Bureau's Architect and Engineering firm, that they didn't need the extra acres, and the consortium settled on 5.13 acres plus existing facilities and buildings on this reduced acreage. These buildings have not been used for some time and it was agreed that considerable renovation was still going to be required.

After the Architect and Engineering validation site visit was completed, the question of whether the Bureau of Indian Affairs had the necessary authority to also purchase land under the authority of Public Law 99-570 arose, and the Bureau forwarded the application of the Northwest Inter-Tribal Education and Training Board to the Solicitor's Office of the Interior Department for review. The Solicitor's Office informed the Bureau of Indian Affairs (Director of Substance Abuse) that the funds awarded under the Act could not be used to purchase or acquire land without specific Congressional authority which was not present in the Act. The So-

licitor's Office determined that the requisite land acquisition authority did not exist in Public Law 99-570, its technical amendments or its legislative history. Public Law 93-638 does provide grant authority to purchase land and facilities for tribes, but this purchase would have to be funded from Public Law 93-638 monies and there is no appropriation to support a purchase of tribal land or facilities. This presented an awkward dilemma for the Bureau since the proposal was otherwise meritorious, had been ranked and rated and could not now be dismissed and not funded.

S. 1813 amends the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2433) to ensure that funds provided under subsection (e) of section 4213 may be used to acquire land for emergency shelters.

COMMITTEE AMENDMENT

The Committee adopted an amendment in the nature of a substitute. This amendment strikes Section 4 and replaces this section with language providing the Secretary of Interior with the authority to select the most cost effective option for each emergency shelter proposal.

LEGISLATIVE HISTORY

S. 1813 was introduced on October 31, 1989 by Senator Gorton for himself and Senators Adams, McCain, and Inouye, and was referred to the Select Committee on Indian Affairs for consideration. The bill was considered by the Select Committee in an open business session on November 9, 1989, and was ordered reported with an amendment in the nature of a substitute.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTE

In open business session on November 9, 1989, the Select Committee on Indian Affairs, by a unanimous vote of a quorum present, ordered the bill, with an amendment in the nature of a substitute, reported with the recommendation that the Senate adopt the bill as amended.

SECTION-BY-SECTION ANALYSIS

Section 1

Section 1 amends subsection (e) of section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986.

Section 2

Section 2 of this amendment strikes out "subject to contracting" in paragraph 3 and inserting in lieu thereof "subject to contracting or available for grants".

Section 3

Section 3 of this amendment provides at the end of paragraph 3 the following new paragraphs 4 and 5.

Section 4

Section 4 of this amendment provides that funds appropriated under authority of this subsection may be used to purchase or lease any land or facilities for the establishment of emergency shelters or halfway houses.

Subsection (a) provides the Secretary of the Interior authority to select the most cost effective option for each proposal for emergency shelters.

Subsection (b) requires Indian tribes or tribal organizations entering into agreement with the Secretary of the Interior to use the land or facilities for emergency shelters or halfway houses described in subsection (a).

Section 5

Subsection (a) of this amendment provides that nothing in this Act may be construed to limit the authority of Indian tribes or tribal organizations to use the funds awarded under this Act for the construction, improvement, renovation, operation, land acquisition, or maintenance of tribal juvenile detention facilities, emergency shelters, or halfway houses.

Subsection (b) provides that Indian tribes or tribal organizations shall not be required to lease tribal facilities to the United States in order to qualify for financial assistance under this or any other Act.

COST AND BUDGETARY CONSIDERATION

The cost estimate for S. 1813, as provided by the Congressional Budget Office, is set forth below:

REGULATORY IMPACT STATEMENT

Paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate requires each report accompanying a bill to evaluate the regulatory and paperwork impact that would be incurred in carrying out the bill. The Committee believes that S. 1813 will have no regulatory or paperwork impact.

EXECUTIVE COMMUNICATIONS

The United States Department of the Interior has informally communicated its support for enactment of S. 1813 as amended.

CHANGES IN EXISTING LAW

S. 1813 amends Public Law 99–570, Section 4213(e) of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986, to ensure that funds under this section may be used to acquire land for emergency shelters.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 14, 1989.

Hon. DANIEL K. INOUYE,
Chairman, Select Committee on Indian Affairs,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 1813, as ordered reported by the Senate Select Committee on Indian Affairs on November 9, 1989. S. 1813 would allow $3 million per year authorized for fiscal years 1990 to 1992 under section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 to be used to acquire land for emergency shelters. Because the legislation would not authorize any additional funds and because the acquisition of land would not alter the spending pattern of the overall program, the bill would not affect federal spending.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Karen Graham (226-2820).

Sincerely,

ROBERT D. REISCHAUER,
Director.

STATEMENT OF SENATOR GORTON ON S. 1813

Mr. President: I am pleased to rise in support of the passage of S. 1813, which was introduced by myself on October 31, 1989. I want to thank Senators Adams, McCain, and Inouye for their cosponsorship and support on this bill.

On November 9, 1989, the Select Committee on Indian Affairs unanimously approved S. 1813 and recommended approval by the full Senate. Today, I am asking unanimous consent that S. 1813 be adopted by the Senate.

Mr. President, S. 1813 would simply ensure that funds under Section 4213 of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 may be used to acquire land for emergency shelters.

I am optimistic that passage of this bill will allow the Northwest Inter-tribal Education and Training Board, an inter-tribal consortium representing six small Northwest tribes, to implement their excellent plan (which was ranked one of the top in the nation) to acquire and renovate an abandoned boys home near the Sauk-Suiattle Reservation for an emergency shelter for Indian youth.

I believe that S. 1813 provides the needed assistance for these six Northwest tribes who have identified a major deficiency of substance abuse and related treatment services pursuant to the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 on their reservations.

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